

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JEFFREY AVERY,

Plaintiff,

v.

BAY AREA RAPID TRANSIT POLICE  
OFFICERS DOES 1-25,

Defendant.

Case No. [22-cv-08940-SI](#)

**ORDER TO SHOW CAUSE WHY  
CASE SHOULD NOT BE DISMISSED  
FOR FAILURE TO PROSECUTE**

On December 16, 2022, plaintiff Jeffrey Avery, through his counsel Stanley Goff and Fulvio Cajina, filed this excessive force case against defendants Bay Area Rapid Transit Police Officers Does 1–25. Dkt. No. 1. The case was initially assigned to a Magistrate Judge. After plaintiff filed a declination to proceed before a Magistrate Judge, the case was reassigned to the undersigned on March 15, 2023.<sup>1</sup>

Defendants have not yet made an appearance in this case, and a review of the docket shows neither a proposed summons nor proof of service. Rule 4(m) of the Federal Rules of Civil Procedure provides that service of the summons and complaint must be made upon defendants within 90 days of filing the complaint. Under the Federal Rules, then, plaintiff should have served defendants by March 16, 2023.

Plaintiff is therefore **ORDERED TO SHOW CAUSE** why this case should not be dismissed for failure to prosecute. **Plaintiff shall serve defendants, and file proof of service on the docket, no later than March 30, 2023.** The Court cautions plaintiff that failure to do so may

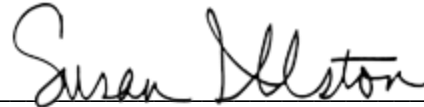
<sup>1</sup> Plaintiff failed to respond to three successive Clerk’s Notices informing him that he needed to file his consent or declination form. The notices gave deadlines of January 20, February 10, and March 3, 2023. Dkt. Nos. 5, 6, 7. Plaintiff ultimately filed his consent or declination form on March 15, 2023. Dkt. No. 9.

1 result in dismissal of this action, without prejudice, for failure to prosecute.

2 The initial case management conference currently scheduled for March 31, 2023, is  
3 **CONTINUED to April 28, 2023. The parties shall file a joint case management conference**  
4 **statement by April 21, 2023.**

5  
6 **IT IS SO ORDERED.**

7 Dated: March 24, 2023

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9 SUSAN ILLSTON  
10 United States District Judge  
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